

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Rhodell Post Office  
Rhodell, West Virginia

Docket No. A2012-8

ORDER AFFIRMING DETERMINATION

(Issued January 25, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012”.<sup>1</sup> The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

---

<sup>1</sup> United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

October 6, 2011, Alvin Lambert Jr. of Rhodell, West Virginia filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Rhodell post office in Rhodell, West Virginia (Rhodell post office).<sup>2</sup> Two additional petitions objecting to the discontinuance were received by the Commission.<sup>3</sup> The Final Determination to close the Rhodell post office is affirmed.

## II. PROCEDURAL HISTORY

On October 13, 2011, the Commission established Docket No. A2012-8 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>4</sup>

On October 21, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>5</sup> The Postal Service also filed comments requesting that the Commission affirm its Final Determination.<sup>6</sup>

---

<sup>2</sup> Petition for Review received from Alvin Lambert Jr. regarding the Rhodell, West Virginia post office 25915, October 6, 2011 (Petition).

<sup>3</sup> See Petition for Review received from Carl Vass regarding the Rhodell, West Virginia post office 25915, October 13, 2011 (Vass Petition); Petition for Review received from Pat Farruggia (Farruggia Petition) regarding the Rhodell, West Virginia post office 25915, October 19, 2011. Collectively, Vass, and Farruggia are referred to as “Petitioners.”

<sup>4</sup> Order No. 905, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 13, 2011.

<sup>5</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, October 21, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, .pdf pages 344-350, the Final Determination to Close the Rhodell, WV Post Office and Establish Service by Highway Contract Route Service (Final Determination).

<sup>6</sup> United States Postal Service Comments Regarding Appeal, November 30, 2011 (Postal Service Comments).

Petitioners did not file participant statements nor reply briefs. On December 15, 2011, the Public Representative filed a reply brief.<sup>7</sup>

### III. BACKGROUND

The Rhodell post office provides retail postal services and Post Office Box service to 107 customers. Final Determination at 2. Fifty-two delivery customers are also served through this post office. *Id.* The Rhodell post office, an EAS-11 level facility, provides retail service from 7:30 a.m. to 12:30 p.m. and 1:00 p.m. to 4:00 pm, Monday through Friday, and 7:30 a.m. to 11:00 a.m. Saturdays, with lobby hours from 7:30 a.m. to 4:00 p.m., Monday through Saturday. *Id.*

The postmaster position became vacant on January 1, 2010 when the postmaster retired. *Id.* After the postmaster retired, a non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* at 2, 6. Retail transactions average 14 transactions daily (13 minutes of retail workload). *Id.* at 2. Post office receipts for the last three years were \$18,076 in FY 2008; \$16,304 in FY 2009; and \$14,152 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$38,320 annually. *Id.* at 6.

After the closure, retail services will be provided by the Stephenson post office located approximately 3 miles away.<sup>8</sup> Delivery service will be provided by highway contract route service through the Stephenson post office. The Stephenson post office is an EAS-11 level post office, with retail hours of 8:00 a.m. to 12:00 p.m. and 12:30 p.m. to 4:15 p.m., Monday through Friday, and 8:30 a.m. to 10:15 a.m. Saturdays. There are 104 post office boxes available. *Id.* The Postal Service will continue to use the Rhodell post office name and Zip Code. *Id.* at 5, Concern No. 1.

---

<sup>7</sup> Reply Comments of the Public Representative, December 15, 2011 (PR Reply Comments).

<sup>8</sup> *Id.* at 2. MapQuest estimates the driving distance between the Rhodell post office and Stephenson to be approximately 3.2 miles (6 minutes driving time).

#### IV. PARTICIPANT PLEADINGS

*Petitioner.* Petitioners oppose the closure of the Rhodell post office. Petitioners present five arguments in opposition to the closing of the Rhodell post office:

(1) inconvenience to elderly citizens who cannot travel to another post office to transact business; (2) the economic savings projected by the Postal Service does not recognize that the Rhodell post office building is paid for and thus the rental fee is erroneous; (3) the post office is large enough to be expanded; (4) the Rhodell post office has been in existence since 1917;<sup>9</sup> and (5) both the Stephenson and the Josephine post offices are being considered for closure. Petition at 1, Farruggia Pettition at 1, Vass Petition at 1.

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Rhodell post office. Postal Service Comments at 1. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact upon the Rhodell community; and (3) the calculation of economic savings expected to result from discontinuing the Rhodell post office. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Rhodell post office should be affirmed. *Id.* at 1-2.

The Postal Service explains that its decision to close the Rhodell post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of carrier delivery and retail service);
- very little recent growth in the area;

---

<sup>9</sup> The Rhodell post office is not listed as having historical significance. Postal Service Comments at 8. See also Administrative Record, Item No. 16 at 1.

- minimal impact upon the community; and
- expected financial savings.

*Id.* at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Rhodell community when the Final Determination is implemented. *Id.*; Final Determination at 7.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, effect on the Rhodell community, economic savings, and effect on postal employees. Postal Service Comments at 1-2.

*Public Representative.* The Public Representative concludes that the Postal Service did not provide sufficient consideration of the effect the closure will have on Rhodell post office patrons. She determined the Postal Service's decision to close the Rhodell post office was "arbitrary and capricious" because she believes it will be unable to provide a maximum degree of effective and regular postal service to Rhodell customers. PR Reply Comments at 5.

## V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the

Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On March 21, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Rhodell post office. Final Determination at 2. A total of 175 questionnaires were distributed to delivery customers. *Id.* Other questionnaires were made available at the retail counter. *Id.* A total of 67 questionnaires were returned. *Id.* On April 13, 2011, the Postal Service held a community meeting at Rhodell Fire Department to address customer concerns. *Id.* Fifty-one customers attended the meeting. *Id.*

The Postal Service posted the proposal to close the Rhodell post office with an invitation for comments at the Rhodell, and Stephenson post offices from June 8, 2011 through August 9, 2011. *Id.* The Final Determination was posted at the same two post offices from September 9, 2011 through October 11, 2011. *Id.* at 1; Administrative Record, Item No. 49; Postal Service Comments at 4.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

## B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: (1) the effect on the community; (2) the effect on postal employees; (3) whether a maximum degree of effective and regular postal service will be provided; and (4) the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

*Effect on the community.* Rhodell, West Virginia is an incorporated community located in Raleigh County, West Virginia. Postal Service Comments at 8; Administrative Record, Item No. 25. The community is administered politically by Rhodell City Hall. *Id.* Police protection is provided by the Rhodell Police Department. *Id.* Fire protection is provided by the Rhodell Fire Department. *Id.* The community is comprised of retirees and those who commute to work. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Rhodell community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Rhodell post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 5, Concern No. 1.

The Petitioners raise the issue of whether the closing of the Rhodell post office will adversely affect the Rhodell community. *See* Farruggia Petition at 1 (the Rhodell post office is a piece of Rhodell's history), and Vass Petition at 1 (Rhodell post office is a part of the community). The Postal Service responds that it investigated these concerns and found that the Rhodell post office is neither a state nor national landmark. Postal Service Comments at 8. The Postal Service maintains that it will preserve Rhodell's identity by continuing the use of the Rhodell post office name and Zip Code. *Id.*; Final Determination at 5. The Postal Service states that it will continue to provide

the Rhodell community with regular and effective postal services through the Stephenson post office. Postal Service Comments at 9.

The Postal Service contends that it will also continue to provide nonpostal services to Rhodell postal customers through the Stephenson post office, which is 2.9 miles away. *Id.* The Postal Service notes that government forms usually provided by the post office are also available by contacting local government agencies. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

*Effect on employees.* The Postal Service states that the Rhodell postmaster retired on January 1, 2010 and that an OIC has operated the Rhodell post office since then. Final Determination at 6. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected.<sup>10</sup>

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Rhodell post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

*Effective and regular service.* Petitioners express concerns about the inconvenience of conducting retail transactions and Rhodell citizens' ability to travel to the Stephenson post office. Petition at 1, Vass Petition at 1, Farruggia Petition at 1. In addition, Petitioner Lambert indicates that he lacks Internet and telephone access.

The Public Representative contends the Postal Service has not appropriately considered the effect the closing will have on the Rhodell community. PR Reply Comments at 5. For instance, the Public Representative argues that if customers do not subscribe to or are unable to receive telephone and/or Internet service in Rhodell, this effectively means customers must rely solely on the Postal Service to interact with

---

<sup>10</sup> Postal Service Comments at 11; Final Determination at 6. The Postal Service indicates early in its comments that the OIC will be separated. Postal Service Comments at 2. However, in the Final Determination and in the discussion of the "Effect on Employees" in its comments, the Postal Service uses less certain language. Postal Service Comments at 11 ("attempts will be made to reassign...") and Final Determination at 6 ("may be separated...").

government and other agencies. *Id.* at 5-6. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Rhodell customers. Postal Service Comments at 2-3. It asserts that customers of the closed Rhodell post office may obtain retail services at the Stephenson post office located 3 miles away. Final Determination at 2. Delivery service will be provided by highway contract route carrier through the Stephenson post office. *Id.*; Postal Service Comments at 2-3. The Rhodell post office box customers may obtain Post Office Box service at the Stephenson post office, which has 104 boxes available. Final Determination at 2.

For customers choosing not to travel to the Stephenson post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 3, Concern No. 7. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* The Postal Service advises that mail security can be addressed by locking mailboxes. Final Determination at 3.

The record in this case supports the conclusion that the Postal Service has attempted to identify and balance the relevant considerations and, in doing so, has satisfied the statutory standard.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

*Economic savings.* The Postal Service estimates total annual savings of \$38,320. Final Determination at 6. It derives this figure by summing the following costs: postmaster salary (\$33,168) and postmaster benefits (\$11,111) minus the cost of replacement service (\$5,959). *Id.*

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Rhodell post office postmaster retired on January 1, 2010. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the

corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Rhodell post office has been staffed by an OIC for approximately 2 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

Petitioners question the economic savings proposed by the closing of the Rhodell post office. Petition at 1, Vass Petition at 1, Farruggia Petition at 1. Petitioners ask that other post offices in the area be closed and combined so only the Rhodell post office would remain. See, e.g., Farruggia Petition at 1. Petitioners argue this would save money because the Postal Service will not have to pay rent because it owns the building which houses the Rhodell post office. *Id.*; Petition at 1.

The Public Representative notes that a map shows there are a number of post offices in close proximity to Rhodell. She also notes that several of the surrounding post offices including the Stephenson post office, is among those under review in the Retail Access Optimization Initiative. PR Reply Comment at 6-7.

The Postal Service responds that it considered alternate options and found that it made more business sense to close the Rhodell post office and provide carrier service. Postal Service Comments at 9-10.

The Postal Service has satisfied the requirements that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

## VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Rhodell post office is affirmed.

*It is ordered:*

The Postal Service's determination to close the Rhodell, West Virginia post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Rhodell post office has been operated by an officer-in-charge (OIC), currently a noncareer postmaster relief (PMR), since the former postmaster retired on January 1, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. The savings from substituting OICs in postmaster positions throughout the nation has already been included in those billions. Counting the savings of a full postmaster salary is in effect double counting. There are inherent and blatant contradictions in the record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

The Postal Service did not adequately consider the impact of the closure on the community as required by 39 U.S.C. § 404(d)(2)(A)(i). Petitioners discussed concerns about local residents' ability to travel to the replacement post office. One Petitioner indicates that he lacks internet and telephone access. The Public Representative

argues that if customers do not subscribe to or are unable to receive telephone and/or internet service in Rhodell, this means those customers effectively rely solely on the Postal Service to interact with government and other agencies. I agree with the Public Representative's contention. A number of Americans in certain rural and remote areas lack access or affordable access to electronic and telephone services, magnifying their reliance on postal services.

The Public Representative also identifies a number of post offices surrounding Rhodell, including the Stephenson post office identified as the administrative receiving office, are among those under review in the Retail Access Optimization Initiative. The Commission has just issued its Advisory Opinion in Docket No. N2011-1, pointing to the fact that its closing plans do not optimize the network. In the case of Rhodell, the failure to undertake actual retail network optimization is exhibited by the Postal Service presenting the community with the option of a receiving post office that might also close.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011 have the respite of a 5-month moratorium.

The citizens of Rhodell, West Virginia and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

## DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service also did not adequately consider the effects on the community and whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post office are not self-sustaining" as required by 39 U.S.C. § 404(d)(2)(A)(i) and (iii).

The Administrative Record indicates that the proposed Administrative post office will be the Stephenson post office, which is currently being considered for discontinuance under the Retail Access Optimization Initiative (RAOI). In addition, the Public Representative notes that the Josephine post office, which is 6.6 miles away from the Rhodell post office, is also being reviewed for closure. PR Comments at 6. The Postal Service should include within its discontinuance process a mechanism to ensure that due consideration is given to the impact on the community of the receiving administrative post office immediately being reviewed for discontinuance.

Section 404(d)(5)(A) requires the Commission to set aside any determination, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law. The Postal Service failed to consider that the Stephenson post office, which is designated to fulfill the postal needs of the Rhodell community, is also being reviewed for discontinuance.

Moreover, the Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since January 2010, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Postal Service's decision to discontinue operations at the Rhodell post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley